IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 32882 of 2006(M)

PETITIONER:

K.J.THANKACHAN,
KAKKANATTU HOUSE, MEKKADAMPU P.O.,
MUVATTUPUZHA-682 316.
(RETD. SALES TAX INSPECTOR, OFFICE OF THE
INSPECTING ASSISTANT COMMISSIONER, MUVATTUPUZHA).

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.PETER JOSE CHRISTO

RESPONDENTS:

---

1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
HOME AND VIGILANCE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

3. DEPUTY COMMISSIONER,
COMMERCIAL TAXES, MATTANCHERY.

4. THE ACCOUNTANT GENERAL (A&E),
KERALA, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SHRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

= = = = = = = = = = = = = = =
W.P.(C) No.32882 OF 2006 M
= = = = = = = = = = = = = = =

Dated this the 26th February, 2007

J U D G M E N T

The petitioner retired from service on 31-5-2006 while working as Sales-tax Inspector. A show cause notice was issued to him proposing to reduce 25% of his monthly pension for a period of 5 years. He has filed a reply stating that the proposal to reduce the pension may not be confirmed. But no orders have been passed pursuant to Ext. P3 show cause notice.

2. The petitioner's right to get full terminal benefits stand blocked due to the pendency of the above proceedings. He has sought for a direction commanding the respondents to sanction and disburse his pensionary benefits admitted as per Ext. P5 order of the Accountant General within a time limit and for a further direction to respondents 1 and 2 to finalise the proceedings pending against him within a time limit.

3. Provisional pension is being paid to the petitioner pursuant to interim direction issued by this Court. No other benefits including full pension,

D.C.R.G. and commuted value of pension have been paid.

4. Govt. Pleader submits that whatever amounts found legitimately due to the petitioner will be paid immediately on finalising Ext. P3 proceedings. The said proceedings commenced before the retirement of the petitioner. Under Rule 3, Part III of K.S.Rs. the authorities are empowered to continue the proceedings and arrive at appropriate findings on facts, namely, whether the allegations made against the petitioner are true or not.

5. Since the petitioner has retired from service, action can be taken under Rule 59 of Part III of K.S.Rs. as also Rule 2 of Part III of K.S.Rs. depending on the result of the fact finding enquiry. In fact, the very notice shows that what is proposed to be imposed on the petitioner is reduction of pension which is permissible under Rule 3, Part III of K.S.Rs. From the materials on record, it is not clear whether the respondents have got a case that the Government have sustained any pecuniary loss on account of lapses or negligence or breach of orders on the part of the petitioner. In the facts and circumstances of this

case, if no proceedings for recovering any pecuniary loss caused to the Government due to any objectionable conduct on the part of the petitioner is pending, D.C.R.G. shall be released to him notwithstanding the ongoing enquiry or proceedings. The proceedings pending pursuant to Ext. P3 shall be finalised within a period of 2 months from the date of receipt of a copy of the judgment. Depending upon the result of that proceedings, the question of payment of full pension to the petitioner shall be taken up and whatever amount is found due to the petitioner consequent on such decision shall also be paid without delay.

With the above directions, the writ petition is disposed of.

K.K. DENESAN
JUDGE

jan/